IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 5049 of 2005

Between:

Mohd. Rizwan S/o. Late Mohd. Azimuddin
R/o. 12-2-823/A/158/2, Santoshnagar, Mehdipatnam, Hyderabad.

..... PETITIONER

AND

1 The Sub-Inspector of Police, Asifnagar Police Station, Hyderabad.
2 The Inspector of Police, Asifnagar Police Station, Hyderabad.
3 The Deputy Commissioner of Police, West Zone, Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring that the action of the respondents 1 and 2 in not conducting investigation in Crime No.438/04 of Asifnagar Police Station is highly arbitrary bad and illegal and consequently direct the third respondent to conduct investigation personally or to handover investigation to his other sub-ordinates officers and pass such other order or orders as deem fit and proper.

Counsel for the Petitioner: MR.P.PRABHAKAR REDDY

Counsel for the Respondents1 to 3: G.P. FOR HOME

The Court at the stage of admission made the following:

ORAL ORDER:

Heard both sides.

2. The complaint of the petitioner is that in spite of a specific complaint lodged with the second respondent-the Inspector of Police, Asifnagar Police Station, Hyderabad, for an offence punishable under Section 324 read with 34 of the Indian Penal Code, no investigation has been taken up so far.

3. The complaint appears to have been lodged by the petitioner somewhere in the month of November 2004. So far, no action is being taken nor there is any progress. Therefore, the learned counsel for the petitioner submits that an appropriate direction be issued to the second respondent to take necessary action, in accordance with law, pursuant to the complaint lodged by the petitioner.

4. Of course, the learned counsel for the petitioner submits that the

petitioner has no faith in the second respondent and hence this Court may direct the third respondent-the Deputy Commissioner of Police, West Zone, Hyderabad, to conduct an investigation/inquiry in this regard.

5. The request of the learned counsel for the petitioner cannot be acceded to because the Inspector of Police is the Officer designated to conduct investigation. Only in exceptional circumstances or if provided by a statute specifically, any other officer, other than the Inspector of Police, can conduct the investigation. In the present case, such an extraordinary circumstance has not been shown nor could be found.

6. Furthermore, if the Investigating Officer does not take up the case and investigate into the matter, as enjoined in the Code of Criminal Procedure, it is not as if the petitioner is rendered helpless. It is always open to the petitioner to approach the Magistrate concerned having jurisdiction by way of lodging a complaint and upon lodging such complaint, the Magistrate may take action either under Section 156 (3) or under the other provisions of the Code of Criminal Procedure.

7. However, it is always to be remembered that the Investigating Officer upon receiving a complaint from any citizen, is expected to inquire into the same and if necessary, cause or conduct proper investigation and file charge sheet in accordance with law, depending upon the result of the investigation.

8. With the above observations and directions,

the writ petition is disposed of, at the stage of admission. However,

there shall be no order as to costs.

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D.S.R.VARMA, J

15TH MARCH 2005

ISN/KRK

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Sub-Inspector of Police, Asifnagar Police Station, Hyderabad.
2 The Inspector of Police, Asifnagar Police Station, Hyderabad.
3 The Deputy Commissioner of Police, West Zone, Hyderabad.

4 Two CCs to G.P. for Home, High Court Buildings, Hyderabad (OUT).

5 Two CD copies

6. One CC to MR.PRABHAKAR REDDY, counsel for the petitioner.

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

W.P.No.5049 of 2005

15TH MARCH 2005